

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference
For 0+ InterLATA Calls

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CC Docket No. 92-77

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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Pursuant to Paragraphs 36-43 of the Commission's Notice of Proposed Rulemaking, FCC 92-169, the American Public Communications Council ("APCC") hereby submits comments on the issue of whether the Commission should restrict the use of proprietary calling cards on 0+ calling.

APCC is a council of the North American Telecommunications Association, and is made up of more than 175 independent (non-telephone company) providers of pay telephone and public communications facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones and public communications.

SUMMARY

The issue raised in Paragraphs 36-43 of the Notice should be resolved by requiring nondiscriminatory validation of calling cards which are made available by a dominant carrier for 0+ calling with other dominant carriers' services. Such a ruling would effectively end AT&T's practice of issuing "0+ proprietary" calling cards which AT&T validates selectively for itself and other dominant carriers,

i.e., local exchange carriers ("LECs"). It is AT&T's issuance of such dominant-carriers-only calling cards which is causing so much consumer frustration and competitive harm.

AT&T must be required either (1) to make validation of its card-issuer identification ("CIID") cards available to all operator service providers ("OSPs") or (2) to make validation available only to itself. In any event, the Commission must order AT&T to end its current practice of validating cards only for dominant carriers.

A nondiscrimination ruling not only would restore competitive equity but also would end the confusion and frustration caused by AT&T's dominant-carrier-only card validation policy. Such a ruling would simply apply to all dominant carriers the policy announced for LECs in the Commission's LEC Joint Use Cards decision.

A nondiscrimination policy would not require the Commission to prescribe detailed rules on whether AT&T can issue proprietary cards, how AT&T must handle 0+ calls that reach its network, or what kind of validation-related information and services AT&T must provide. A nondiscrimination ruling would benefit consumers and would provide a far better solution to competitive problems than the "kill-the-patient" approach of billed party preference.

DISCUSSION

Voluminous information on the anticompetitive and anticonsumer impact of the discriminatory card validation policy currently pursued by AT&T has already been submitted to the Commission. The information APCC has already submitted is summarized in Section I.

below. The costs and benefits of APCC's proposed solution are discussed in Section II. Other specific issues raised by the Commission are discussed in Section III.

I. DISCRIMINATORY VALIDATION IMPOSES COSTS THAT FAR EXCEED ANY CONCEIVABLE BENEFIT

The CIID card problem exists because, despite the emergence of competition over the last few years, the operator services industry is far from fully competitive. AT&T and the LECs continue to dominate the interLATA and intraLATA operator service markets, respectively.¹ Only in such an extremely concentrated industry would it be possible for AT&T to successfully pursue the discriminatory validation² policy and anticompetitive marketing strategy it has chosen for its CIID cards.

The heart of the CIID card problem is that AT&T, as the dominant interexchange carrier, has issued millions of calling cards which it treats as "universal" for certain purposes and "proprietary" for others. The result is that AT&T has created, not its own proprietary card, but a "dominant carrier" proprietary card. When it comes to AT&T cardholders' access to the operator services of local exchange carriers, AT&T wants consumers to think

¹ AT&T is the presubscribed interLATA 0+ carrier for more than 75% of "aggregator" telephones. The LECs, of course, have even larger shares of intraLATA 0+ traffic in their respective territories, in those states where intraLATA 0+ competition is allowed at all.

² The term "validation" in these comments refers to any services, including billing functions, that are provided by one carrier to another in association with card validation.

of its new cards as "universal." Therefore, AT&T allows hundreds of LECs to validate its new cards, and instructs cardholders to dial "0+."

On the other hand, when it comes to access to the operator services of non-dominant OSPs and payphone providers, AT&T insists that its new cards are "proprietary," and refuses to validate the cards. By singling out these non-dominant competitors as the only OSPs who can't validate AT&T's millions of cards, AT&T hopes to drive these competitors from the market.

The results of this two-faced, "yes-it's-universal/no-it's-proprietary" dominant-carrier-card marketing strategy are violently contrary to the public interest. First, consumers are being confused and frustrated, and are blaming the non-dominant competitors and regulators rather than AT&T's Janus-like treatment of its own customers. Second, the competitive 0+ and payphone industries are being destroyed. Third, the access code dialing system laboriously constructed by the industry pursuant to a statutory mandate is being undermined.

APCC does not object to AT&T issuing a true "AT&T" proprietary card, and we discuss such a proprietary card below. What we oppose is AT&T's acting as the instrumentality for creating a dominant carrier card. Such a card accomplishes essentially the same anticompetitive result that the Commission sought to prevent when it outlawed discrimination in "LEC joint use" card validation in its recent decision in Docket No. 91-115. See Policies and Rules Concerning Local Carrier Validation and Billing Information for

Joint Use Calling Cards, Report and Order and Request for Supplemental Comment, CC Dkt. No. 91-115, FCC 92-168, released May 8, 1992 ("LEC Joint Use Cards"), ¶ 36.

A. Consumers Are Confused and Frustrated

Pursuant to AT&T's instructions, cardholders receiving AT&T's new CIID cards attempt to continue using the convenient "0+" dialing procedure they used with their line number cards, and they succeed most of the time (but not always) in reaching AT&T or LEC operator services, because the vast majority of payphones are presubscribed to AT&T or the LEC, and usually to both. At other payphones, however, the 0+ dialing procedure doesn't work, because the card cannot be validated. When this happens, consumers are confused and frustrated, and typically blame the premises owner or payphone provider instead of AT&T. In addition, consumers complain to regulators and blame them for allowing payphones that "don't work," failing to grasp that the payphones "don't work" because AT&T is manipulating the marketplace.

Consumer frustration is exacerbated by the misleading marketing tactics in which AT&T has engaged.³ However, the Commission should not expect this problem to go away if AT&T only ceases its deceptive marketing claims. The consumer frustration is really an inevitable result of AT&T's discriminatory dominant-

³ As described in Comptel's Emergency Motion and various parties' comments thereon, AT&T has falsely told consumers that replacement of their existing, truly universal line-number cards is necessary "to comply with government regulation," and has falsely told consumers that their existing cards would no longer be valid after 1991.

carriers-only validation policy, which conditions consumers to keep dialing 0+.

Consumers cannot be expected to understand why or how to draw the distinctions between the OSPs that can and cannot validate AT&T's card. In order to know beforehand whether a "0+" call will be validated at a given payphone, a consumer would have to (1) have a fairly detailed knowledge of which companies do what in the telecommunications industry, (2) understand the difference between an interLATA and intraLATA call, (3) analyze the signs on the payphone beforehand to determine who is going to handle "0+" interLATA and intraLATA calls, and (4) learn and remember the names of the companies which are allowed to validate AT&T's cards. Few consumers will take the time to complete any of these steps, and only a tiny fraction could be expected to complete all four. Instead, consumers ignore the fine distinctions, dial "0+" and expect their cards to be validated. In those cases when the cards are not validated, consumers become frustrated and angry.

This consumer confusion and frustration is itself contrary to the public interest, and a sufficient reason to order AT&T to stop discriminatory validation of its cards.

B. 0+ and Payphone Competition Is Being Destroyed

AT&T's discriminatory practices are having a profound anticompetitive effect on the operator service and payphone marketplace. The independent payphone companies depend for their survival on being able to earn significant revenue from the use of

payphones to make 0+ calls.⁴ It is only because the industry has alternatives to the delivery of 0+ calls to AT&T and the LECs, who pay minimal or no compensation for such traffic, that the independent payphone industry has been able to grow and prosper in the face of grossly inequitable regulatory conditions.⁵

AT&T's anticompetitive CIID card marketing campaign threatens to reverse all the progress the independent payphone industry has made to date. By migrating its existing cardholders to a 0+ card that is proprietary to AT&T and other dominant carriers, AT&T threatens to destroy not only the independent operator services industry but the independent payphone industry as well. AT&T has not even attempted any serious justification of why it

⁴ It is a fact of life in the payphone marketplace that it is virtually impossible to operate a payphone business successfully on coin revenue alone. Given the varying volumes of coin traffic at different locations, reliance on coin revenue alone does not enable a payphone provider to reach the scale necessary for efficient operations. There must be a significant contribution to the costs of the payphone operation received from "0+" operator service traffic.

⁵ Many payphone providers today use advanced "store-and-forward" technology to offer operator services from devices located inside payphones. This technology, described in the APCC's Comments on Comptel's Emergency Motion at 4, n. 3 (filed February 10, 1992), enables payphone providers to economize on the use of the network and "hold" time. Other service innovations introduced by independent payphone providers include maintenance and repair efficiencies (e.g., polling capability, automatic trouble reporting, computerized diagnostics, and improved coin return functions), new call completion technologies (e.g., automated collect, voice recognition), and enhanced services such as voice messaging. In virtually every case, the independent payphone industry has been the first to offer such innovations.

discriminates between the LECs and other OSPs in the validation of its cards.⁶

AT&T's policy of validating only for other dominant carriers is not only anticompetitive in itself, but the consumer frustration it engenders has also become a devastating anticompetitive weapon. As discussed above, AT&T's dominant-carrier-only policy encourages consumers to use their CIID cards as if they were universal cards good for any 0+ interLATA or intraLATA service at any payphone. This expectation is frustrated when consumers find that they cannot validate their cards at payphones presubscribed to nondominant OSPs (including inter- and intraLATA store-and-forward services offered by many payphone providers). After dialing 0+ and waiting in vain for validation, and perhaps arguing with an operator, consumers have to hang up and redial using AT&T's 10288 access code, or dial "0" to reach a LEC operator. Consumers who have been frustrated in this fashion tend to blame the owner of the payphone where they experience the problem, even though the source of the problem is AT&T. This consumer frustration is a powerful weapon which AT&T and the LECs are using to drive competitive payphone providers out

⁶ AT&T claims it withholds validation only from its competitors. However, AT&T competes with LECs in providing intraLATA 0+ service to consumers who dial AT&T's access number in states where intraLATA 0+ competition is permitted. In addition, a significant number of large "independent" LECs are affiliated with carriers that compete with AT&T's interLATA service. Independent payphone providers cannot validate AT&T's card for interLATA or intraLATA service.

of the market or force them to accept AT&T and the LECs as monopoly providers of OSPs.⁷

With respect to interLATA traffic, AT&T's campaign is creating intolerable pressure for premises owners to demand that payphones be presubscribed to AT&T. At any payphone not presubscribed to AT&T, AT&T's 40 million cardholders are being trained to continue dialing 0+, just as they did with their previous AT&T card. When the card is rejected, because of AT&T's policy of not validating for competitors, the cardholders complain to the premises owners, who pressure payphone providers to switch to AT&T. AT&T is thus being rewarded for causing consumer frustration. The consumer complaints caused by AT&T's card validation practices are driving AT&T's competitors out of the market and allowing AT&T to further enhance its market power.

With respect to intraLATA traffic, in jurisdictions where independent payphone providers are allowed to handle intraLATA traffic with store-and-forward devices, AT&T's campaign is pressuring independent payphone providers to terminate this service and hand over all intraLATA traffic -- for no compensation -- to the LEC. AT&T will allow LECs to validate its card, but will not allow independent payphone providers to do so for the alleged reason that they compete with AT&T in the interLATA 0+ market. Again, AT&T's 40 million cardholders are being trained to dial 0+ for intraLATA as well as interLATA calls (as with their previous

⁷ Documents showing how the Bell Companies and AT&T use this weapon in the marketplace were submitted in earlier comment cycles in Docket No. 91-115.

cards). The cards can be used successfully for 0+ intraLATA calls at LEC payphones because the LECs can validate the cards. However, the cards cannot be used successfully for 0+ dialing at independent payphones with store-and-forward service, because independent payphone providers are not allowed to validate the cards. LECs are using this discrimination directly as a powerful selling point for their own payphones and intraLATA services. See APCC's Comments on Comptel's Emergency Motion, February 10, 1992, Attachment 1. The LEC marketing is supported by the fact that, when AT&T's millions of new cards are rejected at independent payphones, the cardholders complain to the premises owners, who are then likely to switch to LEC payphones.

In summary, AT&T's CIID card campaign and the resulting consumer complaints threaten to wipe out competitive 0+ services and to recreate the shared 0+ monopoly previously enjoyed by AT&T and the LECs. AT&T's card validation practices have created a tacit partnership with the LECs to recreate the predivestiture conditions in which AT&T and the LECs, between them, monopolized all 0+ calls. When this is accomplished, of course, AT&T and the LECs will be even less inclined than they are today to provide payphone owners reasonable compensation for delivering presubscribed 0+ traffic. And there will be no more competitive alternatives to which independent payphone owners can turn. The independent payphone industry cannot survive further erosion of its

revenue from 0+ calls.⁸ As shown in a financial survey of nine of the largest independent payphone companies, prepared by a New York investment banking firm, Arsht & Co., and attached by APCC to its comments on Comptel's Emergency Motion, independent payphone companies are almost uniformly not profitable at present and are not attracting the capital necessary for continued growth. Simply stated, a significant and sustained decline in revenue from 0+ traffic will destroy the independent payphone industry.

C. The Access Code Dialing System Is Being Undermined

Ironically, AT&T is pursuing its proprietary 0+ card campaign at a time when it has just finished aggressively and successfully advocating, before Congress and the FCC, that payphone providers and other "aggregators" be required to convert their equipment to 10XXX dialing. The theory behind forcing the industry to undergo this expensive and burdensome conversion process was to give AT&T's subscribers an efficient⁹ means of reaching AT&T from payphones or aggregator equipment that is presubscribed to other carriers. According to AT&T's earlier position, "nothing is more important

⁸ While the Commission has finally prescribed interim compensation for dial-around calls, no compensation has been paid as yet. Moreover, dial-around compensation does not even come close to making up for the loss of the business opportunities -- including a variety of innovative customized enhanced services -- that are associated with 0+ access.

⁹ While the FCC has required AT&T to establish an 800 or 950 number, which consumers can use to access AT&T from virtually all existing payphones, the FCC decided to require conversion of payphones and other equipment to 10XXX because it is a more efficient dialing sequence. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Docket No. 91-35, released August 9, 1991, para. 10, n. 36.

to the development of an environment in which operator service providers compete on the merits than a prohibition on 10XXX-0+ blocking." Reply comments of AT&T, CC Docket No. 91-35, at 3 (April 26, 1991). AT&T's marketing of its new CIID cards, however, is based on 0+ dialing, with the transparent aim of forcing all payphone owners and aggregators to presubscribe to AT&T. One is left to wonder why AT&T has put regulators and the public communications industry through the painful 10XXX conversion process, designed almost solely to accommodate AT&T and its subscribers, when the end result of its massive card marketing is to recreate a monopoly environment in which there will be no need for 10XXX dialing.

II. REQUIRING NONDISCRIMINATORY VALIDATION OF CALLING CARDS WOULD RESTORE COMPETITIVE EQUITY

The Notice requests parties to discuss the costs and benefits of proposals for addressing the competitive inequities resulting from AT&T's card validation practices. Requiring nondiscriminatory validation of calling cards is a necessary and appropriate means to restore competitive equity to the 0+ and payphone marketplace and relieve the confusion experienced by consumers as a result of AT&T's issuance of dominant-carriers-only calling cards. The Commission should require AT&T either to make validation of CIID cards available to all OSPs or to validate its CIID cards only for itself. In either event, AT&T must be required to end its

discriminatory and anticompetitive policy of validating cards only for itself and other dominant carriers -- i.e., LECs.¹⁰

This approach to the problem is essentially no different from a ruling that "restricts the use of proprietary cards on 0+ calling," as suggested in the Notice. As a practical matter, AT&T's "proprietary" cards can be used for 0+ calling only because they are not truly "proprietary," i.e., only because they are also validated for LECs. If the cards were truly "proprietary," and could be used only with AT&T's services, then consumers no longer reflexively dial 0+ to use the card. To be sure of reaching the only carrier that could validate the card, they would consistently dial AT&T's access codes when they wanted to use AT&T's card.

Nondiscrimination is a simple standard that is appropriately applied to all validation-related services, including the provision of billing information and billing and collection functions when offered in conjunction with validation. Under a nondiscrimination approach, AT&T is not required to offer validation or related services if it does not offer those services to other carriers. The Commission therefore does not have to establish specific administrative requirements other than a standard of equal treatment. See Section III.C. In addition, it is not necessary for the Commission to tell carriers whether to issue proprietary

¹⁰ The FCC appears to request comment on whether such a requirement should apply to all IXCs. APCC is not aware of any IXC other than AT&T that is currently following the discriminatory validation policy described above. Further, none could create a dominant-carrier-only card. Therefore, it is not necessary at this time to decide whether the same nondiscrimination requirement must apply to nondominant IXCs as well as to AT&T.

or universal cards, or how to screen 0+ calls. See Sections III. A. and B.

Requiring nondiscriminatory card validation would stem the injury to competition caused by AT&T's current card validation practices and is consistent with public policy regarding proprietary card. On the one hand, if AT&T chooses to offer validation of its cards to all carriers, then competitive equity for the operator service and payphone industries will be restored because independent OSPs once again will be able to serve customers with AT&T cards.

On the other hand, if AT&T chooses to withhold validation from all other OSPs, including the LECs, then the dominant-carrier proprietary card currently being used by AT&T would be converted to a true AT&T proprietary card, with a very positive effect on the competitive condition of the 0+ and payphone marketplace. AT&T would be competing on the same basis as other card-issuing carriers. Just as with MCI's travel card, or Sprint's FONE card, customers would use AT&T's proprietary cards by means of access codes. AT&T, like other IXC's, would be accepting the logical consequence of issuing proprietary cards, which is that the card must be used on the issuing carrier's network. Payphone providers and OSPs would not find themselves squeezed out. They could continue to serve customers who wanted the convenience of universal 0+ dialing because those customers would be using truly universal line-number or LEC-issued cards.

Requiring nondiscriminatory validation of AT&T's calling cards is clearly within the Commission's jurisdiction. For all the reasons stated in the Commission's recent decision on LEC calling cards, validation of calling cards by AT&T is no less "incidental" to AT&T's provision of interexchange service than validation of cards by LECs is "incidental" to their provision of local exchange or exchange access service. LEC Joint Use Cards, ¶¶ 19-23. Further, given the anticompetitive effects that result from AT&T's validation of its cards on a dominant-carriers-only basis, it is clearly necessary and appropriate to treat AT&T's card validation practices as common carrier services subject to Title II of the Act. Cf. Id., ¶¶ 24-25. Indeed, AT&T's card validation practices are expressly contrary to the nondiscrimination provisions of Section 202(a) of the Communications Act. 47 U.S.C. Sec. 202(a).¹¹ And even if AT&T's card validation practices were not subject to Title II, the Commission must regulate them pursuant to its ancillary jurisdiction in order to prevent frustration of the central purpose of the Act.

Other specific issues raised in the Notice are addressed below.

¹¹ The fact that not all of the LEC services for which AT&T currently offers card validation are interstate in nature does not in any way deprive the Commission of jurisdiction over AT&T's card validation practices. It is well settled that the Commission in regulating matters subject to its jurisdiction, may and, where appropriate, must, take account of anticompetitive and discriminatory effects involving services subject to state jurisdiction. Conway v. Federal Power Commission, 510 F.2d 1264 (D.C. Cir. 1975), aff'd 426 U.S. 271 (1976).

III. SPECIFIC ISSUES IN THE NOTICE

In addition to requesting comment on the costs and benefits of nondiscriminatory validation of 0+ cards, the Notice requests comment on six specific issues:

(1) how and by whom the choice between a proprietary access code card and a nonproprietary 0+ card should be made; (2) how IXCs would distinguish and screen proprietary and nonproprietary card calls; (3) whether carriers should be obligated merely to instruct proprietary cardholders to dial access codes, or whether they should also be required to reject 0+ calls by customers using proprietary calling cards; (4) what information would have to be made available to enable OSPs to carry and bill for nonproprietary 0+ calls; (5) the impact the above-described proposal would have on consumers; and (6) the impact this proposal might have on the costs and benefits of billed party preference or the timeliness with which it could be implemented.

Notice, Para. 43. APCC's comments on these specific issues are set out below.

A. A Carrier Can Decide For Itself Whether to Issue a Proprietary or Nonproprietary Card, As Long As It Treats the Card Consistently

APCC does not argue that AT&T or other carriers have no right to issue proprietary calling cards. AT&T may issue a card that cannot be validated by other carriers as long as it treats the card as truly proprietary -- i.e., withholds validation from other dominant carriers so that consumers will dial AT&T's access code to use the card. However, AT&T may not selectively validate its CIID card for other dominant carriers, thereby fostering its use as a "universal" 0+ card, while refusing to validate for non-dominant competitors. This manner of marketing AT&T's card is both highly abusive to consumers and destructive to the 0+ marketplace.

Simply stated, AT&T cannot have it both ways. AT&T cannot make validation available to the dominant intraLATA carriers, thereby fostering consumer expectations that the card they have been issued is universal, while simultaneously using denial of validation as a cudgel to beat non-dominant competitors into submission.

B. IXCs Do Not Have To Change the Way They Handle
0+ Calls

The second and third issues raised by the Commission have to do with how IXCs will distinguish between proprietary and non-proprietary card calls and whether they will have to reject 0+ calls by customers using proprietary cards. APCC believes that there will not be any need for IXCs to add additional call screening capabilities or reject 0+ calls based on whether or not they are made using a proprietary card. As explained in III.A., above, APCC does not object to ATT's continuing to issue proprietary cards, provided that AT&T does not allow validation of such cards by other dominant carriers. APCC also does not object if AT&T continues to allow its proprietary cardholders to dial 0+ to reach AT&T's network from payphones presubscribed to AT&T. What AT&T may not do is validate its cards for 0+ calls that reach the networks of the other dominant carriers, i.e., LECs, while refusing to do the same for nondominant competitors.

In short, as long as AT&T does not discriminate among the carriers for whom it validates its cards, then APCC does not believe it is necessary to require AT&T to differentiate in its

acceptance of cards based on whether calls reach its network via 0+ dialing, access code dialing, or any other method.

C. AT&T Should Make the Same Information Available to OSPs As to LECs

If AT&T chooses to continue making validation of its cards available to LECs, then it must make validation equally available to other OSPs. The same information should be provided, and the same functions performed, for all OSPs. For example, suppose a Washington, D.C. subscriber makes an intraLATA call in California with AT&T's CIID card, using the intraLATA operator services of Pacific Bell. AT&T currently allows Pacific Bell to validate the card. In order for the subscriber to receive a bill for the call at his Washington, D.C., address, one of two things must happen: either (1) AT&T provides information about the cardholder to Pacific Bell that enables Pacific Bell to ensure that the subscriber is billed, or (2) Pacific Bell provides information about the call to AT&T, and AT&T assumes responsibility for ensuring that the subscriber is billed for the call.¹² In either event, the same information or services that AT&T provides for Pacific Bell should be provided for nondominant competitors.

¹² Either AT&T or Pacific Bell, of course, could contract with the cardholder's LEC, C&P, to actually bill and collect for the call.

D. Nondiscriminatory Validation Will Relieve
Consumer Confusion and Frustration

Requiring nondiscriminatory validation of calling cards will relieve the consumer confusion and frustration caused by AT&T's dominant-carriers-only validation policy. AT&T will have a choice: either make its CIID cards truly universal by offering validation to all OSPs, or make them truly proprietary by validating the cards only for its own long distance services. Either way, consumers will benefit.

If AT&T chooses to open up validation to all OSPs, then consumer convenience will be greatly enhanced. Consumers will be able once again to use their cards for any operator service at any payphone, and will not be frustrated by their inability to validate their cards because of AT&T's selective validation policy.

If, on the other hand, AT&T chooses to validate its cards only for itself, consumers will still benefit because they will know where they stand. They will know that their AT&T cards can be validated only by AT&T, and that they must dial AT&T's access code, which AT&T has repeatedly said was needed to assure its customers that they would be on AT&T's network, in order to ensure validation of the card. They will not be falsely encouraged, as at present, to think that the card is good for 0+ dialing for any service, anywhere, and will not experience the frustration of attempting to use the card for 0+ dialing at payphones that cannot validate the card. They will still be able to enjoy the convenience of 0+ dialing by using the truly universal cards issued by LECs.

E. Nondiscriminatory Validation Is a Far Better Solution Than Billed Party Preference, But Would Not Affect Implementation of Billed Party Preference

The final issue on which the Notice requests comment is how the proposal to require nondiscriminatory validation would affect "the costs and benefits of billed party preference or the timeliness with which it could be implemented." Notice, para. 43.

In its comments, reply comments, supplemental comments, and supplemental reply comments in RM-6723, APCC has demonstrated why the costs, inconvenience, and competitive injury that would be imposed by a mandatory system of billed party preference far outweigh any conceivable benefits. If the Commission requires nondiscriminatory validation of calling cards, the effect on the billed party preference issue would be to tilt the scales even further against requiring mandatory billed party preference.

One of the arguments that has been made (by MCI and Sprint) in favor of billed party preference is that it necessary to redress the anticompetitive effects of AT&T's issuance of dominant-carriers-only calling cards. However, as APCC has explained in its Supplemental Reply Comments in RM-6723, as a "cure" for such anticompetitive effects, mandatory billed party preference is even worse than the disease. In order to "solve" competitive problems, mandatory billed party preference would kill off most of the competitors in the 0+ market.

Requiring nondiscriminatory validation of calling cards, on the other hand, would address the anticompetitive effects of AT&T's dominant-carrier-only cards without destroying any OSP's ability

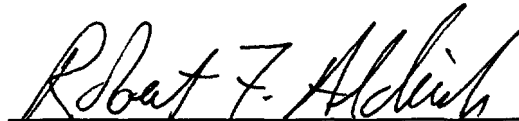
to compete. Moreover, nondiscriminatory validation of calling cards can be implemented far more quickly than billed party preference, would not require costly investment in new LEC network facilities, and would not tend to augment LEC monopolies, as billed party preference threatens to do. For all these reasons, if the Commission requires nondiscriminatory validation of calling cards, the result will be to make it even less appropriate than it already is to order mandatory billed party preference.

However, in the event that the Commission ultimately chose to adopt rules mandating billed party preference, a prior ruling requiring nondiscriminatory validation of calling cards would not result in any added delay in implementation of billed party preference. Thus, the timeliness with which billed party preference could be implemented would not be affected.

CONCLUSION

For the foregoing reasons, APCC urges the Commission to require nondiscriminatory validation of calling cards. The Commission should order AT&T either to make validation of all its CIID cards available to all OSPs, or to terminate the availability of validation to the LECs.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert F. Aldrich", written over a horizontal line.

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Dated: June 2, 1992